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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,992	07/23/2001	Susan Davis Allen	FSU-0004	1377
34610	7590	04/01/2004	EXAMINER	
FLESHNER & KIM, LLP P.O. BOX 221200 CHANTILLY, VA 20153			WINTER, GENTLE E	
			ART UNIT	PAPER NUMBER
			1746	

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/909,992

Applicant(s)

ALLEN, SUSAN DAVIS

Examiner

Gentle E. Winter

Art Unit

1746

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: None.

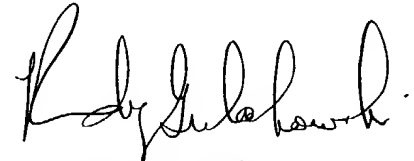
Claim(s) rejected: 1-13.

Claim(s) withdrawn from consideration: 14-21.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

*Continuation of 2. NOTE: Applicant argues that the entry of the amended claims is proper since the amendments: (1) place the application in condition for allowance and do not raise any new issues requiring further search and/or consideration since the amendments amplify issues previously discussed throughout prosecution without incorporating additional subject matter. This examiner disagrees. If the amendments amplify issues, the amplification of issues does not resolve them, resolution is a prerequisite for allowability. Additionally, this examiner notes the addition of a gradient inducing structure apart from the laser in the proposed amendment.

Examiner Winter was clear during the interview that prosecution on the merits is closed, and that generally Examiner Winter will not enter any amendments incorporating limitations that would require another search, or could have been made during prosecution, in this case the amendments could have been made during prosecution, may require another search and definitely require additional consideration. The issue of restriction is not properly before the Office at this time and the arguments are not drawn to claims that are properly before the examiner..



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